

REPORT.

The Select Committee appointed to receive and collect evidence and information as to the rights of the Hudson's Bay Company under their Charter, the renewal of the license of occupation, the character of the soil and climate of the Territory, and its fitness for settlement, have the honor to present their **FIRST REPORT** as follows:

Your Committee beg leave to inform your Honorable House that they have examined three witnesses, Messrs. Gladman, Dawson, and MacDonell, upon the matter referred to them for investigation; and Your Committee submit to the consideration of Your Honorable House the evidence hereunto annexed of these three gentlemen.

The whole nevertheless respectfully submitted.

T. LEE TERRILL,
Chairman.

Committee Room,
8th June, 1857.

TUESDAY, 26th May, 1857.

Minutes of Evidence.

Mr. George Gladman called in and examined.—I am a native of the Hudson's Bay Territory; born at New Brunswick, one of the Hudson's Bay Company's Posts on the Moose River. Am 57 years of age; reside now at Port Hope Canada West. Was taken to England by my father, when 6 years of age. My father was a chief Factor of the Company; his commission bears date 1805. My father died in 1821, whilst in the service of the Company. I returned from England to Hudson's Bay in 1814. Was 31 years in the Company's service in the Northern and Southern Departments of their Territory; was a Clerk in the service from 1814 to 1836, I then received a commission as a Chief Trader. Chief Factor is the highest grade of officers in the Hudson's Bay service. Was store-keeper and accountant both at the Moose Factory Depot and the York Factory Depot. Have traded with the Indians in both Departments. Resigned my commission in 1845. Had no quarrel with the Company. Falling into bad health in 1849 at Port Hope, was re-engaged in the Company's service, receiving a new commission in 1850. Again resigned in 1853 and returned to Port Hope, where I have a small farm. As a native of the Hudson's Bay Territory feel deeply interested in regard to the welfare of its numerous people, and in its progressive improvement. Wintered at New Brunswick the first year of my engagement with the Company, 1814. The soil at that station very good; excellent potatoes raised there, also every description of vegetables, oats ripened well, made good oatmeal, ground with a steel hand-mill; had good barley also; no attempt made to raise

wheat or corn there at that time, 1814; has been since tried as I am informed, and with very good success. Horned cattle kept there; housed during winter. Do not know anything to prevent a good settlement being made there; rather distant from market. This station is about midway between Moose Factory and Lake Superior. Goods are conveyed thither in boats of from 24 to 28 feet keel, from Moose Factory. The Northwest Company's Post there in 1814, was supplied with goods from Canada. Winter temperature rather severe; lowest degree of the thermometer observed, was 45° below zero.

Wintered next at "Eastmain" Old Factory, on the east side of Hudson's Bay. Climate not so good as at Moose Factory or New Brunswick; raised good potatoes, turnips and other vegetables nevertheless; soil sandy; station much exposed to bleak northwest winds off the sea. A large herd of cattle kept there at that time, an abundant supply of hay being made in the salt marshes on the shores of the Bay. Vetches grew wild on the point of the river; abundance of wild strawberries and currants. The cattle were kept as a resource in case of the Company's ships wintering in the Bay. Have wintered four several years during my experience; two ships wintered at Strutton's Island (James' Bay) in 1815-16; again at Charlton Island, in 1817; again at the same place, in 1830, and a fourth time in 1833; was a passenger on board on the last occasion. The ships did not leave Moose until late in the month of September; encountered heavy bodies of ice in the north part of the Bay, and winter setting in early, were obliged to return to the nearest place where supplies could be procured. Crews and passengers suffered much from scurvy; were furnished with provisions both from Eastmain and from Moose Factory. The voyage through the Straits and Bay was at that time considered doubtful and hazardous, ships, however, have only wintered in the Bay once since then. Charlton Island was a Depot station of the North-west Company of Montreal about the year 1808; they had another station on Haye's Island nearly opposite to Moose Factory. The scheme of trading in the Bay was not found remunerative, and those stations were abandoned before I returned from England in 1814. The lowest temperature I remember to have registered at Eastmain was 50° below zero.

Was at Big River, North of Eastmain, in 1818; did not winter there. Soil sandy and light; climate similar to that of Eastmain; potatoes and other vegetables grown there notwithstanding.

Was also at Rupert's House, where the soil is much better, and the station more sheltered than either Eastmain or Big River; more favorable for garden cultivation. The cultivated grounds at all the Company's Posts are of small extent, none that I saw would be called a "farm" in Canada. Farming and fur trading reckoned incompatible pursuits by the Company's managing officers.

Have been at Hannah Bay, a small Post at the extremity of James' Bay, maintained chiefly for the purpose of procuring wild fowl for the subsistence of the Depot establishment of servants. Wild fowl are generally very abundant on the shores of Hudson's Bay.

Resided at Moose Factory fifteen years; it is the chief depot of the Company in the Southern Department, much sheltered from northerly winds; climate and soil good; raised potatoes and other vegetables there in great abundance; barley ripened well; small fruits, as currants, gooseberries, strawberries and raspberries, plentiful, grow wild; never knew wheat tried, the season being considered too short. Horned cattle, horses, sheep and pigs kept there; all housed in winter. The goods from London are there landed and the furs shipped.

Have been also at Albany, but did not winter. Climate and soil did not differ much from Moose, being little more than a hundred miles further north, well sheltered also, and the extensive marshes on the coast furnish an abundant stock of fodder for domestic cattle. The Albany River is considered one of the best routes of communication between Hudson's Bay and the Red River settle-

ment. Boats were used for conveying goods to the interior country long before the junction of the Hudson's Bay and Northwest Companies in 1821. The most western Post of the Albany District of ancient days was Brandon House, on the River Assiniboine. The soil around the Posts of Henley, Martin's Falls, Osna-burg, and Lac Seul, is of a quality that enables the servants of the Company to raise fair crops of potatoes; in point of latitude these posts are very little north of Red River.

Was in England in 1834 and 1835, and on my return to Canada was ordered into the Northern Department of the Company's trading territories. Cumberland House being appointed as my wintering station in 1835. Excellent wheat grown at Cumberland, which was ground by us with a steel hand-mill, made flour of first quality.— Other vegetable produce raised there with complete success; soil chiefly on limestone, and the climate favorable for garden stuffs of every sort. The Company's horses were not housed at all during the winter, and thrive very well in the reedy swamps near to the station. This is considered, in fact, one of the choice posts of the Northern country. Was stationed at York Factory from 1836 to 1841. The soil around is not adapted to cultivation, being for the most part mossy swamps: saw a crop of turnips raised there, in a small garden, only once—failed in other years from frequent blights and night-frosts during the summer months. Ice remains on the coast through July: pits were dug there with a view of ascertaining the depth of ground thawed during summer; repeated digging shewed only about three feet of thawed ground, whilst the perpetually frozen ground was found to be about fifteen feet. This Depot is the most important post of the Company on Hudson's Bay, being the centre of imports and exports of the whole Northern Department. Indians are employed in transporting goods, are very expert voyageurs, and engage readily in any duties required of them by the Company's officers: they are paid chiefly in clothing and other goods essential to them for making a winter hunt of furs; many of them died in 1836 from influenza.

Was at the Company's post at Red River for a few months in 1841. Wheat may be raised at the settlement in almost any quantity. Hitherto the want of a market for their products has cramped the energies of the settlers; the quantity of flour and other produce required by the Company is so small that it can readily be furnished by three or four farmers. An extract from the census of 1856 shews that the number of horses then at the settlement was about 2800; horned cattle, 9300: pigs, 4700; sheep, 2400; estimated value of live stock £52,000 sterling. The population of the settlement, including Indians, is about 10,000. A large stock of wheat and flour is generally kept on hand by the Company, to guard against want, arising from failure of crops, whether caused by spring freshets, summer droughts, insects, or other casualties. Supplies of goods for the settlement are sometimes transported from York Factory in the autumn, after arrival of the Company's ships from England. The greater part is usually sent up in the early days of summer. Settlers have begun to find it more advantageous to sell their furs and carry on their commercial dealings at St. Pauls, Minnesota. They have the choice there of a greater variety of goods, and obtain farming implements which are not yet manufactured in the settlement, or imported by the Company. A considerable portion of British trade is thus becoming lost both to England and Canada, is yearly increasing, and will continue to increase in amount. A well supplied depot or store established at the Lake of the Woods, which is only about 100 miles from the Company's post at Fort Garry, might probably divert a considerable portion of the trade from the American course it is now taking. It may also be desirable to counteract as much as possible, every tendency towards a leaning or dependance on our neighbours for supplying the wants of the colonists. Troops being stationed at Red River, it becomes important that a regular chain of communication with them should be immediately and permanently established, and depots of military stores formed. Hudson's Bay Straits being closed by barriers of ice, and communications by that sea route only practicable at one par-

ticular season of the year, it is, I conceive, very important, indeed, that provision should be made for every contingency that may probably arise. If it should be found desirable to send a re-inforcement of troops to the settlement at a late period of the year, say September, or to send additional stores of any kind, it is clearly "impracticable" for a second vessel to make the voyage by the Straits at that season. On the other hand, in ordinary years the route between Lake Superior and the Red River settlement, by way of Rainy Lake, is open during the month of October; it seems to me, therefore, almost indispensable that the Portage Roads should be cleared and a boat communication be established with the least possible delay. My opinion is, and I think I shall be sustained in this opinion by older members of the North West Company, that boats may be used (in what is now the canoe track of the Hudson's Bay Company,) for transporting bulky or heavy packages from Lake Superior to Rainy Lake; thence to Lake Winnipeg boats are used, and have been used by the Hudson's Bay Company for many years back, in the transport of their goods and furs to and fro. The whole length of this canoe track, including lakes, rivers and portages does not exceed 150 miles. There would be some difficulty and labour in clearing these portages, and improving the navigation of the small shallow streams that have to be passed, but I cannot give way to the assertion that the difficulties to be contended with are insurmountable, and the route consequently impracticable except for north canoes. A sufficient force of men, with an ample supply of tools would make the road passable in a month or two, and if wintering parties were placed at certain points, I have no doubt whatever the whole route may be placed in good travelling order before the expiration of another year. The position I would suggest as points of occupation are, Fort William, the Lake of the Thousand Islands, and the point of the boundary line terminating on the Lake of the Woods. Boats might be constructed during the winter at each of these positions, and remain on the chain of waters where required. At an after period when the portage roads are completed, tram-ways may be laid down, and trucks used for the conveyance of heavy stores and baggage. Improved portage roads and river navigation, would also enable settlers from Canada to locate themselves on the borders of the Kaministiquia, and Rainy Rivers, or other suitable places of which we have such glowing accounts by travellers who have passed through that interesting country.— There are several considerable lakes on that line of route, and there are many parts of the Rivers without rapids or portages, so that the land carriage would not be very great. The officers of the Company pass through the country so rapidly, they have little or no opportunity for making observations as to the quality of soil, or its fitness for agricultural purposes and settlement; nor do they take much note of distances from point to point. The Red River section, the Swan River, the Saskatchewan, the Assiniboine and the lands West of the Lake of the Woods, are considered the most desirable portions of the country for farming purposes. Other localities are no doubt equally as good, and where wood is more abundant, as the Winnipeg River and the borders of Rainy Lake.

No agricultural "settlers" (properly so called) are permitted at or near the Company's trading stations, excepting Red River. Their stations are occupied solely by the officers and employés of the Company and their families, the Indians being the only other residents near the stations.

There have been occasions when provisions and goods were sent in canoes to Rainy Lake, but those were very rare and arose from unusual circumstances, the regular supplies for the district being always sent from York Factory in boats.

Have been several times in charge of the station at Norway House; it is the central depot of the upper country. The Company's "Brigades" of boats for the Saskatchewan, the Rocky Mountains, Cumberland, English River, Athabaska, McKenzie's River, Swan River, Red River, and Rainy Lake, all receive their voyaging supplies at this station; it is specially the depot for Athabaska and

MacKenzie's River. The Goods for MacKenzie's River are sent in by a brigade of boats fitted out from Red River, and leave Norway House in June; they are met by the MacKenzie's River Boats at Portage la Loche, or Methy Portage; cargoes are exchanged; the boats of MacKenzie's River return to the head quarters of the District to which they belong, Fort Simpson, and those of Red River to York Factory, where they arrive often barely in time to ship the furs for London.

The Athabaska supplies are lodged at Norway House, and are carried in by the same boats that bring out the furs. These furs are then sent forward to York Factory by other brigades. Good potatoes are grown at Norway House, and at the Indian Village in the neighbourhood. This village was commenced by a Wesleyan missionary from Canada, in 1836 or '37, is increasing year by year; the Indians have built good log houses, cultivated patches of land, are industrious, and gradually becoming independent of fur hunting. Soil at the village pretty good, have not known wheat tried there, but being on the same parallel as Cumberland, may be raised when further clearances have been made. These Indians are the carriers and voyagers of the district, are consequently absent from home the greater part of the summer.

From 1842 to 1845, when I resigned my first commission and came to Canada, was stationed at Oxford House, experienced no difficulty whatever in raising vegetables, with a sufficiency of potatoes for the use of the Company's people, and had some to spare for York Factory, and for the Indians.

There is another Indian Village on the Saskatchewan River, near Cumberland; it is under the superintendence of a missionary of the Episcopal Church, and is going on prosperously; wheat is raised there; also barley and vegetables of almost every description.

Goods for the supply of the whole of that country are shipped from London, generally in the first week of June, arrive at the depots on Hudson's Bay in the end of August or beginning of September, discharge cargoes and reload with furs as quickly as possible, and return to England. A very small part of the goods is distributed to the trading stations in the autumn; the greater portion remains in store all winter, and is distributed throughout the whole of the districts in the following summer. Boats are used in the transport service of every district except Abittibi and Temiscamingue; those are the only places I know where canoes are in use for conveying goods and furs.

The River navigation from York Factory to Lake Winipeg is much interrupted by shallows, rapids, and falls; some are dangerous when the water is high. Portages are not very long, and the whole route has been much improved since 1821. From Moose Factory to Lake Superior, the water communications have been improved in a similar manner.

The Indians would, in my opinion, be benefitted by a free, open trade, provided spirituous liquors could be excluded. Provisions, clothing, and other articles which are to them the necessaries of life, they would be able to obtain with greater facility and in more abundance than they now do. The chances of suffering and privation from not having adequate supplies would be lessened, and no longer obliged to roam over the country in search of a livelihood, families would congregate together, become tillers of land, and their condition be thus greatly improved.

There is a fixed tariff for sales of goods to the Company's servants, in all parts of the country, 50 per cent. on prime cost. Commissioned officers pay 33 $\frac{1}{3}$ per cent., which is allowed to cover freight and charges to the depots; there is no fixed or regular tariff for dealings with the Indians, the custom of the post regulates prices both for goods and furs. When I was in the service, the Indian tariff prices, or custom prices, had not been changed at some of the districts for many years. Goods are dearer at the distant posts, and prices vary at each, more or less. Great latitude in this respect is allowed to officers in charge of districts. The success of the trade, and welfare of the Indians, depend chiefly, almost entirely, on their judgment and management; not on the Directors in London, or on the Governor of

Rupert's Land. General arrangements for conducting the trade are made by the councils of officers, held once a year in the country; the Governor presides. Councils determine the outfits of goods, number of men to be employed, stations to be occupied, boats to be sent in or out; minor details left to the discretion of the officers appointed to the charge of districts and posts; officers amenable to the council, each officer makes an order for the goods he considers needful for the trade of his district, restricted according to the number of boats ordered, supplies are sometimes insufficient for the wants of the Indians, they do, not unfrequently, suffer from this cause, orders for goods sometimes curtailed and diminished by the officer in charge of the depot, sometimes in England by the Governor, depot officer responsible to council in such case. The treatment of the Indians, whether humane or otherwise, depends entirely on the officer in charge of posts, his liberality governed by his outfit. A general order was made in 1821, that the Indians be treated with kindness and humanity; that order has never been rescinded. Gunpowder, shot and ball, fishing twines, blankets, cloths, and axes, are the chief necessities; without these the Indians may perish. In all parts of the country where I have been, the Indians were peaceable and inoffensive; troublesome when intoxicated, sometimes dangerous; they have been reduced in number by diseases, as small pox, influenza, hooping cough, scarlet fever, &c.; never knew of any hospital on the east side of the Rocky Mountains. The Company's posts are so few and far between, that the Indians cannot readily obtain relief or assistance in a time of sickness, each post supplied with such medicines as the officer in charge may order, one medical man at each depot only, no schools or schoolmasters at the posts, excepting Red River, none that I know of from 1814 to 1845, there may be since I left the service.

Goods in the original package from England may be laid down at Lake Superior in the month of May, or by the first week in June. The Company cannot be unaware of this fact. Their goods are only leaving England at that date.—The Company's posts at Lake Nipissingue, Lake Huron, Sault Ste. Marie, and Lake Superior, are all supplied with goods from their Depot at Moose Factory. These goods only arrive at their several destinations fifteen months after shipment from London. Goods from Canada might be conveyed to the shores of Hudson's Bay or to Lake Winipeg, in July, or three months only after shipment. The furs traded from the Indians within the same limits are collected at Michipicoton and conveyed to Moose Factory, where they are shipped for London; might certainly be in London (by conveying them through Canada,) in the month of September, or date of shipment from Moose Factory. When the ships wintered in Hudson's Bay, the furs did not of course reach London until the following year. Was four years at the King's posts and seigniories on the St. Lawrence, in the Company's service. The furs from those posts and from the Ottawa were sent to Quebec for shipment to London. The furs of Temiscamingue, Abitibi, Grand Lac, Trout Lake, Waswanopy and Mistassiny, are all sent to Moose; receive their supplies of goods from the same place. The Company's private rights are not much respected in the St. Lawrence. Have not been at the Oregon or crossed the Rocky Mountains; neither have I been at any of the Districts north or west of Cumberland House. My position at the depot enabled me to gain information and know what was doing in those parts of the country. Potatoes were raised at the Saskatchewan, Lesser Slave Lake, English River, Athabaska and other posts in the southern part of the Mackenzie's River, although sometimes cut off by frosts.

Churchill and Severn, posts on the coast of Hudson's Bay, are supplied from York Factory by means of boats and small schooners. The proximity of Bay ice renders garden crops very uncertain. In favorable years they raise vegetables. The same may be said of the whale rivers on the eastern side of the Bay. At these places porpoise fishing is now carried on but very little, of any pecuniary

benefit to the Company. There are no salmon or other fisheries carried on in Hudson's Bay; never attempted, so far as I know; too much ice in Hudson's Bay and Straits to make a profitable speculation.

The acting partners or officers of the fur trade stationed in the country, have no voice in regard to leases or charters of the Company. These matters are arranged and settled by the Board of Directors in London; and it is only from thence, or from the Imperial Government that information is or can be derived. The commissioned officers of the Company are governed by a distinct code of Regulations or "Deed Poll" as it is termed, and covenant entered into when they receive their commissions; and by this Deed Poll their interest in the trade is defined and guaranteed.

The memorandum of the Honorable Commissioner of Crown Lands, published in the "Return to an Address of the Honorable Legislative Assembly," is so replete with valuable data on which to ground a Report by this Committee, that I cannot regret my own inability to say any thing of importance on the charter of the Company, their leases or their titles. I perfectly agree with the Honorable Commissioner that the time has arrived when the measures he has suggested should be "most forcibly pressed upon the Imperial Government;" and I beg your permission to express my deep felt conviction, that, on the decision of this Committee, and the course of action that may be taken by the Canadian Government at this juncture, depends the future weal or woe of my countrymen in the British North-west Possessions.

MONDAY, 8th June, 1857.

Mr. *Allan Macdonnell* called in and examined.

1st. Have you made the claims of the Hudson Bay Company a subject of study?

2nd. Do you know any thing of an intention on the part of merchants here to attempt a competition in trade with the Hudson's Bay Company?

3rd. Would a competition in trade lead to the disadvantage of the Indian tribes?

4th. Have you any knowledge of Lake Superior and the various Hudson Bay Forts situated in that country?

5th. Have you any knowledge of the routes by which a road could be opened with the West, and with Hudson's Bay?

The claim which the Hudson's Bay Company set up in virtue of the charter of Charles II., has engaged my attention for some years past, and the investigations which I had the opportunity of making have led to the conclusion that those claims have no foundation in law or in equity; whilst I might not be disposed to dispute, that in itself the charter may be good, so far as it creates a body corporate, with a common seal, and with power to sue and to be sued, yet I contend that it cannot confer upon the Hudson's Bay Company those powers and privileges which they assume to exercise under it. The sovereign, in the exercise of the prerogative of the Crown, may grant a charter, but it has always been held that no sovereign can grant to any of his subjects exclusive rights and privileges, without the consent of Parliament, and this charter having been so granted, the powers and privileges sought to be exercised under it are illegal.

And this evidently was the opinion of the Hudson's Bay Company themselves, as early as 1690, viz., 20 years after the date of the charter. At that period they petitioned for an Act to be passed for the confirmation of those rights and privileges which had been sought to be granted to them in this charter.

The Act first and second of William and Mary, is the Act alluded to, it did legalize and confirm them, but only for the period of seven years and no longer.

That Act of Parliament has never been renewed since its expiry in 1697, consequently the charter is left as it originally stood, and wholly unaffected by any confirmatory Act of Parliament. The very foundation for the Charter is a grant of territory presumed to have been made in the year 1670. Now as Charles II. could not grant away what the Crown of England did not possess, much less could he grant away the possessions of another power. The very words of the charter itself excludes from the operation of the grant those identical territories which the Hudson's Bay Company now claim.

At the date of the charter, these territories were then actually in the possession of the Crown of France, and held and occupied by the Company of New France, under and by virtue of a charter granted by Louis XIII. of France, and bearing date 1626, being forty-three years anterior to the date of the charter by Charles II. A reference to the charter alluded to will shew that it defines the very boundary of those territories which the Hudson's Bay Company now claim. A copy of the charter of Louis XIII. will be found among the Parliamentary documents of Lower Canada.

By the treaty of Ryswick, in 1696, the whole of Hudson's Bay was recognized as belonging to the Crown of France. In that treaty no rights nor claims are provided for, or even alluded to as regards the Hudson's Bay Company, whence it is conclusive that the Hudson's Bay Company either had no legal rights, or such rights, if they existed, were abrogated by that treaty.

By the treaty of Utrecht, in 1713, a portion of the shores of the Hudson's Bay was ceded to England, and that was the first time that England could claim an undisputed possession there. In the treaty stipulations were made for the necessary protection of the Company of New France, which then held the country under the charter of Louis XIII. The charter of Charles cannot be construed to have the effect of granting any lands acquired only by the Crown of England under another sovereign, and long after the death of Charles.

By the treaty of 1763, which surrendered Canada to the British Crown, the French and Canadian people were guaranteed in their properties and in the exercise of those rights and privileges of trade as used by them under the French dominion.

They had for a century previous carried on an extensive trade with all the western country, particularly throughout the valleys of the Assiniboine and Saskatchewan.

The grant of any exclusive privilege of trade by the Crown of Great Britain over any portion of the country ceded, is a direct breach of the articles of capitulation (Article 42) "The French and Canadians shall continue to be governed according to the customs of Paris and the laws and usages established for this country, and they shall not be subject to any other imposts than those which were established under the French dominion."

The term Hudson's Bay Territory, as used in Acts of Parliaments and which Acts the Hudson's Bay Company assume to regard as a recognition of what they call their rights, can only be made to apply to such territory as lie within the Straits of Hudson's Bay, and were in 1670 actually in possession of the Crown of England; none other could have been granted, or if made to apply to other lands, it can only be made applicable to such territories as were at that period unknown to the Crown of England or any other power, but were subsequently discovered by the Hudson's Bay Company, in conformity with the con-

dition upon which the charter was granted, viz: "for the discovery of a new "passage into the South Sea."

The mere incidental allusion in those Acts to the "territories heretofore "granted to the adventurers trading to Hudson's Bay" is not declaratory of the legality of the claim. It was well known that the Hudson's Bay Company claimed territories under a charter of Charles II., the Legislature was not required to express opinion upon the validity of the deed, nor what were the boundaries of the country supposed to be granted. Nor do those Acts of Parliament preclude the assumed rights of the Hudson's Bay Company being enquired into or set aside as illegal.

Besides, where these Acts refer to the territories, and allude to the "rights of the Hudson's Bay Company," there is this very significant proviso: "such rights as the said Company are by law entitled to claim."

A reference to the History of Canada will establish the fact that the charter of Charles II. can confer no rights nor claims to territory.

The able memorandum furnished to the Legislature by the Hon. Mr. Cauchon, recites historical facts and furnishes data to warrant the conclusion that the assumption of power over the territory in question by the Hudson's Bay Company, is a usurpation.

To that portion of territory to which they limit their claim to an exclusive right of trade, in virtue of a license issued to them and the partners of the North West Company, in 1821, and since renewed in 1838, will be admitted as a legal right, but it is a right which I think the people of Canada will unanimously protest against ever being renewed.

Such exclusive privileges are antagonistic to the spirit of the age in which we live, and are opposed to the best interests of Canada, and are regarded in this country as a direct infringement upon the rights of a free people.

Immediately after the cession of Canada (about the year 1766) numerous British subjects engaged in the fur trade, pushed their enterprises throughout the whole of British North America, trading from Montreal to Hudson's Bay, and to the Pacific shores. These traders followed the old route of the Company of New France, and the French traders. In 1784 the most of these traders united and formed the North West Company of Montreal. They carried on their trade also at the Hudson's Bay, and sent ships there as well as the Hudson's Bay Company. The North West Company sent ships also around Cape Horn to the mouth of the Columbia. The Hudson's Bay Company did not trade there at that time, nor in any part of that country which they now designate as their licensed territory.

The principal trade of the North West Company was carried on through Canada to the shores of the Pacific. The route pursued was from Montreal via the lakes to the head of Lake Superior, and thence across the continent. The means of transport was by canoes and bateaux. About 5000 men were employed in this trade.

I am told by those who were partners in that Company that the profits of the Company were very great until the Hudson's Bay Company attempted to drive them out of the country by means of force. The contests arising from that attempt caused serious losses to each Company, and both were nearly ruined. It was then that the Companies united and resolved to share the country between them, by setting up the claim under the old extinct charter, and with their united means they deter other traders entering into a competition for the trade, and this was year by year more effectually guarded against, by using every means to close up the old travelled routes, which would have pointed out the way to other traders.

Sometimes independent traders would make an establishment along Lake Superior, or some of the Lakes more in the interior. These parties were driven out, and their property destroyed. There was no means of redress, as there were

no tribunals at which the perpetrators could be made to answer, and to travel with a cause some 1000 miles to institute proceedings, was an effectual bar since 1847. Steamboats now travel along the coasts of Lake Huron and Superior; but even now with their facilities a man cannot obtain justice. These countries and these shores are neither within the limits of any organized Territories, and outrages are committed by the Hudson's Bay Company with impunity.

The Hudson's Bay Company first entered into the valley of the Saskatchewan about thirty years after the cession of Canada, and whilst the North-west Company had large establishments there.

The Hudson's Bay Company did not enter into the valley of the Assiniboine until about 42 years subsequent to the cession of the country, (about 1805). British traders from Montreal made establishments there as early as 1766, or about three years after the cession of the country. The French traders must have occupied many of the same localities near 100 years prior to that.

The Hudson's Bay Company entered into those countries from Hudson's Bay, via, Haye and Nelson Rivers. Previous to this they had confined themselves to the shores of the Hudson's Bay.

They did not set up claim by virtue of the Charter until many years after their first entry into those countries. They traded like any other traders and like the North West Company. The North West Company was not a chartered Company, but a Joint Stock Association, and claiming no exclusive privileges.

The Hudson's Bay Company first set up the claim of exclusive rights, &c., in 1814. The late Col. Miles Macdonell did so on behalf of the Company, by issuing a Proclamation, as the Governor of the Assiniboine County, appointed by the Hudson's Bay Company.

The contests which ensued between the two Companies originated in this assumption of exclusive rights, and not from the actual competition in trade. The trade had always been carried on freely and without any restrictions.

The proclamation was set at defiance by the partners of the North West Company. Among the most prominent of these were some of his own relatives.

I believe there never had been any collision between the rival traders until after the assumption of power on the part of the Hudson's Bay Company.

The legality of the claims of the Hudson's Bay Company were never subjected to the decision of a legal tribunal, unless the result of the trials of some of the parties of the North West Company be deemed so. These parties were charged with the crime of murder, having taken the lives of the Hudson's Bay people who sought to enforce their claims.

The two companies united in 1821 and called themselves the Hudson's Bay Company.

The effect of this union was to destroy a trade which had heretofore benefitted Canada by turning it through Hudson's Bay. The route via the lakes was abandoned, not because it was a more objectionable one but because the continuing it as the route would in all probability lead to another competition for the trade by Canadian merchants. The united Companies succeeded in closing the route to all others who might have been disposed to compete for the trade. Having been closed for so many years and no new traders being induced to enter into a contest with the now powerful Company, the trade and the route became forgotten. If the trade were again opened I am convinced that as active and productive a trade as formerly would at once spring into existence.

The facilities which now offer for the successfully carrying it on are as one hundred to one, compared with the former period. For instance it cost the North West Company £30,000 to lay down their goods at Fort William, at the head of Lake Superior. The same quantity of merchandise could now be laid down there for £300 or £400, and the route between that and Lake Winnipeg could for more than three-fourths of the way, be made facile for a steamboat. If a large trade

like that which formerly was carried on should now be revived, there is no doubt but that steamers would ply upon the long reaches of water which exist beyond the height of land. I am convinced that within two years a trade would be carried on along that route to the shores of the Pacific.

It was so in the early history of the country and before steam was known, and there is no reason why such a trade should not exist now. Witnesses will tell you that in 1814 and '15, Fort William had frequently 3000 traders assembled there; Toronto at that period could not number 500.

Had the North West Company not united with the Hudson's Bay Company, there is no doubt but that the route, via Lake Superior, would by this time have been navigable all the way to the Saskatchewan, or at least all the portages made facile for trade, &c., and a chain of settlements would have been formed along the route.

The profits of the Hudson's Bay Company are very large. In March, 1856, it is said the trade sales amounted to near half a million. They sold of Buffalo robes alone 80,000, at about 2.10 a-piece.

Goods from England could via the St. Lawrence be laid down on the shores of Hudson's Bay or Lake Winipeg before they could leave England for these points via Hudson's Bay.

Ships do not leave England for Hudson's Bay before the month of June, and they cannot get through the straits before the end of July.

There is a determination on the part of those who are settled in what is called the Hudson's Bay Territories, to engage in a trade, and set at defiance any attempt to continue the exclusive trade of the Hudson's Bay Company. Traders have gone out to the Red River country with the intention of trading against the Hudson's Bay Company. They are British subjects, and some have gone from this place, and others will follow from other parts of the country.

Preliminary arrangements have been made in this city with a view of reviving the old trade once carried on by Canada, and which emphatically belongs to Canada.

An agent has been sent last winter to the Red River; upon his return here a more definite action will be taken.

The parties that have gone with goods, and those who are to follow, will go in by the United States, via St. Paul's. From St. Paul's they will travel by carts across the plains about 700 miles.

Goods have been furnished by American traders, at St. Paul's, to parties at the Red River, who are to trade as far as the McKenzie River.

That is within the territories over which the Hudson's Bay Company claim the right of exclusive trade in virtue of the license held by them, and is distinct from what is called the Chartered Territory.

These parties are generally half breeds; as natives of the country, and as British subjects they are determined to exercise a right which no laws can restrict, unless they have a voice in making those laws.

This summer about 1200 carts are expected to leave the Red River country with peltries to be traded at St. Paul's.

The route is much longer than that to Lake Superior, and occupies about thirty days of travel. If that by Lake Superior was improved, boats might arrive there in fifteen days from the Red River. Loaded canoes during the time of the North West Company were about twelve days. A light canoe has passed from the Red River to Lake Superior in eight days.

The expense to be incurred in re-opening the old route has caused parties to take the St. Paul's route.

If the route was opened from Lake Superior I have no doubt but the whole trade of that country would come down Lake Superior.

Had not the carts at the Red River been all prepared for the travel to St.

Paul's this summer, I believe that many of the hunters would have attempted the Lake Superior route this month. Some packs of furs are now on the way down via the Lake Superior route, only one canoe load, however, is coming; neither boats nor canoes were built or I am informed there would have been more.

The value of peltries to be taken to St. Paul's by the carts will amount to about \$100,000.

They will carry back merchandize in exchange, and some money.

I am convinced that the Indians will be vastly benefitted by a competition in trade; and at the same time advance their civilization.

The very existence of the Indian is now made dependent upon the supplies which the Hudson's Bay Company provides, and the consequence is that he is subjected to the Hudson's Bay Company in as great a degree as the slave is to his master. When the Indian has a choice of a market for his furs or for the purchase of the necessities of life, he becomes more independent and self-reliant, and he certainly has a better opportunity of being remunerated for his toil than when he is compelled to sell and to purchase at the same shop.

A competition in trade will always be accompanied by the introduction of immigration and all the various industrial pursuits of civilized life. These always carry blessings in their train. I know that whenever the Indians can, by any possibility, relieve themselves from the necessity of hunting for the Hudson's Bay Company they do so; and they are not more slow than others in discovering that there are other occupations which will produce powder and shot, and blankets, and other necessities, as well as the more laborious and uncertain pursuit,—the chase.

In 1846 the whole of Lake Superior was as absolutely under the control of the Hudson's Bay Company as the most distant parts of Hudson's Bay; and the same thing may still be said of it with the exception of the fort at Sault Ste. Marie, and perhaps, the fort at Michipicoton. Civilization has surrounded the first, and occasionally approaches the latter; but at the forts at the Pic, at Neipigon, and at the Kaministiquia, they have relaxed but little in their rule over the Indians.

In 1846, the Indian band at Garden River were miserable, and depended upon the hunt. As soon as civilization came upon them, they turned to till the earth and ceased to be hunters, and I do not believe that a single fur is now carried by any of the band to the Hudson's Bay Fort at the Sault. This same band of Indians, who did not even grow a potato in 1846, sold in 1850—3,000 bushels, and they now possess cattle and grow crops of grain. Shortly after we opened mines upon Lake Superior, several Indians came to us from the neighborhood of Michipicoton Fort. They ceased to be hunters for the Hudson's Bay Company, and some twenty or thirty were employed at the mines in clearing up the land, and some in driving drills, others in fishing for the establishment. They soon discovered that they obtained for their labor those articles which peltries only would produce or purchase at the Hudson's Bay Company's Fort.

Wherever mines were opened upon Lake Superior, the Indians found employment in some capacity or other. And among a body of miners were always some who traded or purchased the furs which any Indian would bring in, and sold to a better advantage, and to more satisfaction to himself; he was no longer under the apprehension that unless he carried his furs to the Hudson's Bay Fort, he and his family would suffer.

I might give very many instances of the misery and degradation of the Indians of Lake Superior, when dependent upon the Hudson's Bay Forts for all the necessities of life; and I can show these same Indians now well clothed and well fed, and enjoying comfort and happiness, and drawing a sustenance from the production of the soil, or engaged in some other pursuit less precarious than the hunt, and all resulting from having a free choice to sell and to buy from whom he pleases. One instance will serve to exemplify how the Indian

is benefitted by a competition in trade, and it will illustrate how the system of the Hudson's Bay Company is calculated to degrade the Indian, and destroy his capabilities of emancipating himself from the bondage of an avaricious community of trading monopolists. Along the shores of Lake Nipissing are extensive cranberry marshes. The cranberry is an article of trade, and sells at a very remunerating price. A merchant at Penetanguishene, Alfred Thompson, Esq., engaged an Indian chief, named The Eagle, to gather cranberries for him, and agreed to take some 200 barrels at \$6 a barrel. The Indian commenced to gather them. He was forbidden to do so by one Osmond, the person in charge of the Hudson's Bay Fort near the locality, and he proclaimed to the Indian band that if they gathered any cranberries, he would stop all the supplies which were necessary to them for their subsistence, during the long winter. This then had the effect of deterring the Indians, their women and children, from gathering the fruit.

The object which the Hudson's Bay Company had in view, was to prevent the Indians learning that there was another pursuit whereby they would soon become independent of the Company, and cease to be their hunters, as there were no traders within some 300 miles of the locality. The Indian band were wholly dependent upon this post for all the necessaries of life, and they had not experienced that the products of their marshes would have more readily and with greater advantage to themselves, purchased all their necessities of life, which only peltries can obtain at the Hudson's Bay Company post.

The Indian chief came to me, stated the circumstances, and immediately upon Mr. Thompson being made acquainted with the matter, he at once in a spirited manner furnished the chief with a supply of goods, with which he started to sit down along side the Hudson's Bay Fort, and prove to his band that they possessed the means of being rendered independent of hunting for the Hudson's Bay Company.

I know Lake Superior well, and I have been for the last ten years living along its coasts; have often visited every Hudson Bay Fort along its shores, and have been up all the important rivers emptying into the Lake, and have gathered much information in relation to the various routes which lead to the west, and also those leading into Hudson's Bay.

There is no danger of contests, such as the Hudson's Bay Company and North West Company carried on in former times; the latter Company but defended themselves from their assailants; and it is not likely that these will again resort to a like guilty course.

I believe the country to be a very fine country, and not at all inferior to the most favored places of Canada west, but I do not think that the fact of its being so or not, is material to the question of the day; that is, whether or not, the Hudson's Bay Company shall continue in the enjoyment of an exclusive monopoly in trade, even though the whole country, from Lake Superior to the Pacific be a barren country, utterly destitute of any hope of cultivation, yet we know that there exists a trade, be it valuable or not. British subjects, and above all Canadians, will exercise a right of trade there, and maintain that in this day even Great Britain, without our consent, has not the right to forbid Canadian people trading there, merely to protect some few traders in London, in the enjoyment of a monopoly. Besides the routes, via the Kaministiquiâ, to the Red River, there are other routes within British territories. The first named is the one now travelled, and is called about 680 miles. There are several portages.

There is another route leading from the Kaministiquiâ, and may be made a better one than that now used. Another route could be made from the shores of Lake Superior to Arrow Lake. This would be the shortest of any. The Pigeon River route is the old route of the French, and also of the North-west Company. There is a chart of the route, and with all the portages laid down, and the measurement across each portage in yards. Grand Portage, which is from Lake Supe-

rior to the Pigeon River, is within the United States boundaries, but the dividing line is through the middle of Pigeon River. I think that we have a better route than that from the mouth of Pigeon River. I have the measured distances across the portages by other routes. Steamboats could run upon several of the long reaches, and were it not for some short spaces the whole distance to the west of the Lake of the Woods might be rendered navigable for steamers.

MONDAY, 8th June, 1857.

Mr. *William Mc D. Dawson* called in and examined.

I am head of the Woods and Forests Branch of the Crown Land Department, and reside in Toronto.

I have never had any difficulty or quarrel with any one connected with the Hudson's Bay Company.

Have you particularly studied the titles under which the Hudson's Bay Company claim certain rights of soil, jurisdiction, and trade on this continent?

I have made this subject a particular object of study for many years, and have omitted no opportunity of acquiring information upon it, and although with more time than I could devote to it, and a more extended research, much additional information could be obtained, I believe that it would only tend to fill up details, and strengthen and confirm the results of the investigation I have already made.

Will you state to the Committee the result of your investigation?

The result of my investigation has been to demonstrate that in the Red River and Saskatchewan countries, the Hudson's Bay Company have no right or title whatever, except what they have in common with other British subjects. Wherever they have any possession or occupancy there they are simply squatters, the same as they are at Fort William, La Cloche, Lake Nipissing, or any of their other posts in Canada.

The Governmental attributes they claim in that country, are a fiction, and their exercise a palpable infraction of law.

I am no enemy to the Hudson's Bay Company, nor to any individual connected with it, and I think that there are, at the present day, extenuating circumstances to justify a great degree of forbearance towards them, when their position comes to be dealt with either judicially or legislatively.

Illegal as it undoubtedly is, their present position is a sort of moral necessity with them. The first attempt of the Company, under Lord Selkirk's régime, to assume that position, was no doubt a monstrous usurpation, but it was defeated, though not till it had caused much bloodshed.

The Hudson's Bay Company and the Canadian traders (North West Company) afterwards amalgamated, and then, in pursuance of a policy, most dexterously planned and executed, carried the trade away back into the interior, from the very shores of the Lakes and Rivers adjoining the settlements of Canada, and took it round by Hudson's Bay to keep it out of view, to lessen the chances of a new opposition springing up.

They also gave out that it was their country—a fiction which the License of exclusive trade for the Indian territories helped to maintain—and they industriously published and circulated Maps of it, as such, which, being copied into other Maps and Geographical works, strengthened the delusion, till it became very general indeed.

When therefore by this means they had been left alone in these remote territories, without any intercourse with the organised tribunals or legitimate Govern-

ment of the country—an intercourse which their monetary interests forbade them to seek—it became a sort of necessity for them to establish a jurisdiction of their own.

It is true that they have gone to an extreme in this matter which it would be difficult to excuse; but in such a case it is hard to take the first step and be able to stop afterwards, more particularly when it consists in a total antagonism to existing law, or rather in assuming to themselves the functions of constituted authorities where they legally possess only the rights of subjects and traders, in common with the rest of the community.

But having once assumed and exercised such powers, and thereby made themselves amenable to the laws of the country, it is not to be wondered at that they have sought to justify it on the pretense that they possess those powers of Government (doubtful at best, even in those localities where they have some shew of title) are without the least foundation on the Banks of the Saskatchewan or Red Rivers.

In thus palliating the tenacity with which the Hudson's Bay Company cling to their fictitious title, I may be accused of being their apologist, but I am so only to the extent that, at the present day their position has become a necessity, for, in so far as they have affected the rights of others, they have rendered themselves liable to the most serious consequences, should any party agrieved see fit to appeal to the legal tribunals of the country, and it is but natural to suppose that they will endeavour to maintain the fiction long enough to enable them to effect a compromise.

Any number of individuals might associate themselves together for mining, hunting or agriculture, say at Lake Nipissing or on Anticosti, and finding no legal tribunals there, or within their reach, they might establish a jurisdiction of their own and execute their judgments. Circumstances may be imagined in which such a course, if resulting from the necessity of their position, might be morally right though legally wrong, but nothing short of an act of indemnity could save them from the consequences if pursued at law, by those whose rights they had affected.

Such is exactly the position of the Hudson's Bay Company at the Red River, and for the judgments they have rendered there they are undoubtedly amenable to be judged by the legally constituted tribunals of this country; and those whom they have condemned or punished, or whose rights or interests they have adjudicated upon can certainly obtain redress. And to this extent I would be their advocate, that in so far as their assumption of jurisdiction has been, in a manner, a necessity resulting from the acts of former years, the Legislature should pass an Act of indemnity to shield them from the consequences—the circumstances to be first investigated, however, by a commission appointed by the Government for that purpose.

It may seem presumptuous in me to put the case so strongly in opposition to the general view of their territorial rights, but it is not a matter of opinion, it is a matter of fact. I could have no hesitation to state as a fact, that the County of York and the District of Montreal are not portions of the Company's Territory, but the fact that the Red River and Saskatchewan are not in their Territory is just as strong and absolute, and the circumstance that the one happens to be better known than the other does not alter the fact in the one case more than the other.

But the generally received view of the subject is but of recent date and simply the result of the circumstance, that no one in particular has taken any interest in denying it. It is only since the union of the Companies in 1821 that there has been no obstacle to the continuous imposition of the Company's views upon the public till they ultimately became rather unopposed than accepted; and in denying their title now, (on the Saskatchewan and Red River,) I am simply in accord with the highest authorities whose province it has been to treat the question judicially.

It must be remembered that the Company did not attempt to even enter upon these countries until 104 years after the date of their charter, viz; in 1774, and that they then did so, not as taking possession under their charter, but only to participate in a traffic then in the hands of British subjects trading from Canada in

virtue of the conquest or cession of the country, through which, and not in virtue of their charter, the Company also had, of course, a right to trade as British subjects.

A rivalry having been kept up for many years in the trade, and the absurd construction of the charter now contended for having been *invented*, the attempt to exercise the powers claimed was made by the Company through Lord Selkirk, first theoretically about the years 1811-12 and practically about 1814, by warning off the North West Company and obstructing the channel of their trade, and the result was a great deal of strife and bloodshed. In the course of this strife various appeals were made to the Provincial and Imperial Governments and to the legal tribunals, and in every instance the decisions were directly or constructively adverse to the pretensions of the Hudson's Bay Company.

In a dispatch to the Governor General from Earl Bathurst, by order of His Royal Highness the Prince Regent, under date 6th February, 1817, I find the following instructions in relation to these events:

"You will also require under similar penalties the restitution of all forts, buildings, or trading stations, with the property which they contain, which may have been seized or taken possession of by either party, to the party who originally established or constructed the same and who were possessed of them previous to the recent disputes between the two Companies.

"You will also require the removal of any blockade or impediment by which any party may have attempted to prevent or interrupt the free passage of traders or ~~others of His Majesty's subjects or the natives of the country with their merchandise, furs, provisions, and other effects, throughout the lakes, rivers, roads and every other usual route or communication heretofore used for the purposes of the fur trade in the interior of North America, and the full and free permission for all persons to pursue their usual and accustomed trade without hindrance or molestation."~~

And in conclusion this object is again peremptorily insisted on, viz: "the mutual restoration of all property captured during these disputes, and the freedom of trade and intercourse with the Indians, until the trials now pending can be brought to a judicial decision and the great question at issue with respect to the rights of the two Companies shall be definitively settled."

The trials then pending to which the above allusion has reference were those instituted by Lord Selkirk against the partners and employees of the North West Company, who had resisted the pretensions of the Hudson's Bay Company, and in consequence of which a battle was fought on the Frog Plains, at the Red River, in which some 20 of the Hudson's Bay people were killed, including the "Governor," as they styled their chief officer. These trials were for murder, (some of the parties as principals and some as accessories) for arson, robbery, (stealing cannon) and other high misdemeanours, and were held in this City, then the Town of York, in October 1818, and resulted in the acquittal of all the parties on all the charges, though it was not denied that some of them had been in the battle, in which, however, they contended that they were in defence of their just rights.

These trials were held under the Canada Jurisdiction Act, (43 Geo. III, cap. 138) by authority of a commission from Lower Canada, but the jurisdiction under that Act being questioned on the ground that the Frog Plains were in Upper Canada and therefore not in the territories affected by the Act, the Court was so doubtful on the question of boundary that the charge to the jury directed that in case of finding the prisoners guilty, they should return a special verdict, setting forth that "they could not see from any evidence before them, what were the limits of Upper Canada." The Attorney General was unable to define these limits, but appealed to the Court to decide, as they were "deducible from treaties, Acts of Parliament, and Proclamations, &c.," and the judgment of the Court was as above stated; the following passage occurring in the charge of the Chief Justice.

Report from
Minutes taken in
Court. Page 287,
Oct. 1818.

"Mr. Attorney General has put in evidence the latitude and longitude of the Frog Plains, but he does not put in evidence whether this latitude and longitude be without or within the boundaries of Upper Canada, and I do not know whether from 90° to 100° or 150° form the western limit of Upper Canada."

In other words the Court could not affirm that Upper Canada had any Western limit on this side of the Pacific; and the Court was right, its westerly limit never had been assigned, and absolute evidence, of the very nature which the Attorney General (now Chief Justice, Sir J. B. Robinson) admitted would be proof upon the subject, existed, so far as to prove that the Province extended beyond the Lake of the Woods, without determining how far beyond, but it was not his duty to quote it as he was prosecuting for a conviction as directed by a special commission from Lower Canada under a particular Act. An acquittal, however, rendered any special verdict unnecessary, and the question was not therefore further tried on these cases.

I must remark, however, that the question raised, was solely whether the scene of the outrage at Red River was in Canada or the Indian Territory, not whether it was in Canada or the Hudson's Bay Company's Territory; the latter alternative was not even entertained, having been almost entirely ignored on the trials as too manifestly absurd to make any legal fight upon at all. In short the case for the defence was based on a justification of resistance to the assumed authority of the Company, whose preposterous pretensions on the Red River with "Governors, Sheriffs, &c.," were treated with ridicule; without, however, detracting from the individuals, "Governor" Semple who was killed, or his predecessor, McDonell, who were worthy of the highest respect, though, like many others, imposed upon in the first instance by the specious pretences of the Company and Lord Selkirk.

Other actions and trials took place in Upper Canada, all of which, so far as I have been able to trace them, were adverse to the Hudson's Bay Company. In February 1819, in this city, William Smith, Under-Sheriff of the then Western District, obtained £500 damages against Lord Selkirk, then at the head of a large armed force, for resisting him in the execution of a writ of restitution founded upon a verdict obtained at Sandwich in 1816, and resistance also to a warrant for his Lordship's arrest.

At the same time Daniel McKenzie obtained £1,500 damages for forcible detention &c., by Lord Selkirk.

Criminal proceedings were also instituted and a bill of indictment found against Lord Selkirk himself and the leaders of his party, for their illegal transactions in the Western Territories; but I have not yet been able to trace up the result of this case, and no doubt much valuable information could be obtained by some one having more time than I have had to hunt up the records of these proceedings.

The latter trials, I believe, were in the ordinary course of procedure of Upper Canada, and not under the Special Act for the Indian Territories &c., and the proceedings taken extended to transactions which occurred far within the territories drained by waters discharging into Lake Winnipeg.

Having shewn the views of the Judicial authorities of Upper Canada, I would advert for a moment to those of Lower Canada.

In May 1818, Charles De Reinhard was tried at Quebec for murder committed in 1816 on the River Winnipeg, under the Canada Jurisdiction Act. Exception was taken to the Jurisdiction of the Court on the ground that the locality was not in the Indian Territory, but within the limits of Upper Canada. The Court overruled the objection and decided that the westerly boundary of Upper Canada was a line on the meridian of 88° 50' west longitude from London. I hardly think that any surveyor, geographer or delineator of boundaries of any experience or scientific attainments would concur in that decision.

The question would be too long, however, to discuss now, and I shall only say

that it was based on the assumption that, of the territory previously belonging to, and acquired from France in 1763, only a part was organized as the Province of Quebec, and that the two Provinces of Canada, after the division, were confined to the same limits provided for the former by the Act of 1774. The Court, the Attorney General and the Counsel for the prisoner, alike concurred in the fact that the River Winnipeg was a part of the country previously belonging to France and ceded by the treaty of Paris in 1763, and at no stage of the proceedings was the question of its being a part of the Hudson's Bay Company's Territories for one moment entertained.

De Reinhard was found guilty and sentenced to death, but although the Court refused to re-consider its decision, yet the reasoning of Messrs. Stewart and Valliere was so clear, that the Judges deemed it expedient that the execution should be delayed till the decision of the Imperial Government could be had upon the question of Jurisdiction.

The actual reasons given by the Imperial Government I have not been able to get at, but I know that when the decision was given, the prisoner was released, and that the question submitted was that of Jurisdiction, as above stated.

I must here remark, however, that notwithstanding the able and convincing arguments of Messrs. Stewart and Valliere, they omitted one point which the Court would have been obliged, by its own admissions, to have accepted as conclusive against the judgment it gave. The decision given was based upon the technical construction put by the Court upon the actual wording of an Act of Parliament, but it was admitted (by the Court) that the country to the West only "came into the possession of the British Crown at the treaty of Paris in 1763," and it was also admitted that the king could, by "*an Act of Sovereign Authority*," have placed that country under the Government of Canada. It was merely denied that he did so, not asserted that he could not. The counsel for the prisoner did not chance to come upon the Commissions of the Governors, or they would have found that there had been such an "*Act of Sovereign Authority*," distinctly describing that country to the West of the Lake of the Woods as attached to the Government of Canada, and the Court, by its own admission, must have been bound by it.

I may also remark that the decision of the Court at Quebec would have made the westerly limit of Upper Canada, a long way east of the United States boundary at Lake Superior, leaving out the shores of the Lake (where we are now selling mining lands,) and its westerly tributaries, and has therefore nothing in common with the boundary designated for us by the Hudson's Bay Company, viz.: the water-shed of the St. Lawrence, and for which *there is no earthly authority except themselves.*

On this head I must advert to one other authority which is of the highest importance at this moment, when troops are about to be sent to the Red River, and who, if they carry with them the erroneous views which, of late years, have been with some success imposed upon the public by the assiduous promulgation of the Company, may unfortunately be placed in a position of antagonism to the civil power. There were indeed some troops there not very many years ago, and no such evils, as might be apprehended now, resulted; but the circumstances are changed; the scenes of an earlier period may come back if the attempt be made, wholly unsustained by law, to repress a legal right. If such should be the case, it would be unfortunate if Her Majesty's soldiers were found on the wrong side, acting against law, for the subject is now being so well discussed that the people will know their rights, and will appeal to the legal tribunals and the civil powers of the State to sustain them. Better that military rule prevailed entirely, for then the officers would know their duties and their responsibilities. If they go under the impression that they are to be subject to the supposed civil officers of a self-constituted Government which has no legal existence, they may find themselves called

upon to enforce behests which are not law, which are infractions of law ; they may be called upon to subdue resistance to illegal acts to which resistance is a duty and a right ; and if, for acting on these behests, they are ultimately brought before the Courts of Justice, they will find that they have acted under those whose powers will be treated as a nullity, whose civil offices will be held a mockery. This has been so before ; it may be so again, if due precaution be not observed ; and I state it thus strongly now because the more it is known, the less will be the chance of its recurrence.

If proper civil officers, magistrates, &c., were appointed by His Excellency the Governor General, for the Red River country, to whom alone the troops could look in case of emergency, as vested with authority, the difficulty and danger would be obviated ; for without this there is no authority in that country, by, through, or in any person connected with the Hudson's Bay Company, as such, to which any officer or soldier in Her Majesty's service would be justified in yielding obedience.

To revert to the authority upon this subject, I was about to quote ; it will be remembered that during the troubles which formerly took place, upon special representations made by Lord Selkirk that he was not safe in proceeding to the Red River settlement, some troops were sent with him, and the instructions given to them by order of His Excellency, Sir Gordon Drummond, are so clear and decisive that no one can mistake their purport. They were as follows :

ADJUTANT GENERAL'S OFFICE,

Quebec, 17th April, 1816.

SIR:—THE EARL OF SELKIRK having represented to the ADMINISTRATOR IN CHIEF, and Commanding General of the Forces that he has reason to apprehend that attempts may be made upon his life, in the course of the journey through the Indian country which he is about to undertake, His Excellency has in consequence, been pleased to grant his Lordship a Military Guard for his personal protection against assassination. This party, which is to consist of two serjeants and twelve Rank and File of the Regiment De Meuron, is placed under your command, and I am commanded to convey to you the positive prohibition of His Excellency the Lieutenant General Commanding the Forces, against the employment of this force for any other purpose than the personal protection of the EARL OF SELKIRK. You are particularly ordered not to engage yourself, or the party under your command, in any disputes which may occur betwixt the EARL OF SELKIRK and his engagés and employés, and those of the NORTH WEST COMPANY, or to take any part or share in any affray which may arise out of such disputes.

By such an interference on your part, you would not only be disobeying your instructions, but acting in *direct opposition* to the *wishes and intentions* of the *Government*, to the *COUNTENANCE, SUPPORT and PROTECTION* of which, *EACH PARTY* has an equal claim.

The EARL OF SELKIRK has engaged to furnish the party under your command with provisions during the time of your absence ; you are on no occasion to separate from your party, but to return with his Lordship, and on no account to suffer yourself or any of your detachment to be left at any settlement or post in the Indian country.

These instructions are to be clearly explained to the non-commissioned officers and men in your party.

I have the honor, to be, Sir,

Your most obedient, humble servant,

(Signed,)

J. HARVEY,

Lt. Col., D. A. G.

Lieutenant Graffenried, }
De Meuron's Regiment. }

[The italics and capitals are the same as in the original.]

This is another emphatic declaration that the Government held the Hudson Bay Company and the Canadian traders as possessed of equal rights, and that His Majesty's troops at least were not to be used against the one to sustain the ridiculous pretensions of the other.

Notwithstanding the stringency of these instructions, however, Lord Selkirk having a number of the disbanded DeMeuron soldiers in his pay, it was difficult for the regulars to resist being led along with them, to enter upon the North West Company's property, &c., and which involved them in legal difficulties, after their return, from which it was not easy to extricate them.

I have confined myself in the foregoing remarks to the Red River and Saskatchewan countries, which were the principal scenes of the disputes which have heretofore called for action, and it will be seen that the imperial authorities, the military authorities, and the courts of justice have all ignored the pretensions of the Hudson's Bay Company as regards those countries.

The great danger in renewing the Company's lease of the Indian territories, however, would be that they might drop the pretence that the Red River, &c., is covered by their charter, and claim it as part of the Indian territories, a plea which, though erroneous, might be more easily sustained by technicalities, inasmuch as some of the remote parts of Canada, perfectly understood to be such, have nevertheless sometimes been designated as the "Indian countries," in official documents.

I have not referred to the validity of the Company's charter, either to deny or admit it; I merely deny that it has effect on the countries I have spoken of.

In support of this I have quoted more recent authorities, but for a more particular investigation of their title, its extent and origin, I beg to refer to a Report which I wrote for the Commissioner of Crown Lands, some months ago, the substance of which appears in the shape of a Memorandum in the Return to an Address of the Honorable Legislative Assembly, dated 15th March, 1857, for certain papers connected with the Hudson Bay question. It embodies the views I have entertained for many years, and is the result of much careful study.

Have you made the early and present boundaries of Canada a particular subject of study; if so state the result?

The early boundaries of Canada or New France included I think the whole of Hudson's Bay, for I find all that part of the country granted to a trading Company by the King of France, in a charter somewhat similar, but forty-three years earlier than the charter of the Hudson's Bay Company. I find the country also confirmed by Treaty to France, at St. Germain's en Lay, thirty-eight years before the last named charter, but the investigation of this part of the subject is fully stated in the Memorandum referred to.

I find that from the Treaty of Utrecht in 1713 to the Treaty of Paris in 1763, the boundaries between the French possessions in Canada and the British possessions in Hudson's Bay were not defined. The lines claimed by both parties are distinctly laid down on the Map lately prepared by Mr. Devine in the Crown Land Department. Both, it will be seen, give the Red River and Saskatchewan to France, and the line laid down from British authorities is from those least favorable to French pretensions of that period. All the country south of that line is of course what was ceded by France, as Canada, in 1763, and was in her undisputed possession up to that time. There was never any westerly limit assigned to Canada either before or since the Treaty of Paris. The French claimed to the Pacific though they never explored the whole way across, which, however, the Canadians (British and French) were the first to effect after the Treaty.

Some British authorities of a more recent date claimed under the Treaty of Utrecht from Hudson's Bay to latitude 49° as having been so determined by Commissioners; but no such decision was ever given. I have searched every book I could find upon the subject, and have communicated with those who

have searched the best libraries of France and England with the same object, but no authority can be found for such a boundary.

What do you know of the soil and climate of the British territories north and west of Lake Superior to the Pacific?

I know the country in these respects in a general way, as well as I can know any country that I have never personally visited. A great deal of it is of the finest character, both with respect to soil and climate, but in such an extent there are of course some sterile, rocky, and barren tracts. The immediate shores of Lake Superior are for the most part rock-bound, but a conviction I have long entertained, deduced from certain premises, has been sustained by recent proof that an extensive table-land or flat country exists, in the interior, to the north. To the west, after crowning the height of land near the Lake, there is a great deal of flat country. From the most westerly-British point on Lake Superior to the Red River settlement, the distance in an air line is 350 miles, and there is no reason to apprehend that the average difficulties of making a road the whole way are greater than are ordinarily met with in the interior of Canada.

Much of the distance, however, is navigable. From the lower end of the Lake of the Woods to the foot of Rainy Lake is navigable in one reach of 156 miles; thence through Rainy Lake, &c., there is a navigable reach of 77 miles (though some say there is a break, making 44 and 33 miles) thence there are 28 miles, making fine navigable reaches, the Winnipeg River being nearly as large as the Ottawa. From the last 28 miles the distance is about 115 miles to Lake Superior. If the road were made through this tract, the whole country would be easily accessible. There are navigable waters, however, a great part of the last named distance, though in smaller reaches; I have only given those on which Steamers could be used whenever desirable. From the Lake of the Woods to Red River in a direct line without going round by Lake Winnipeg, is said to be a very fine country, but it is not thoroughly explored.

The route above sketched is the nearest and the easiest to be made available for summer travel. It has an immense advantage in distance over the Minnesota route. Taking Detour on Lake Huron, as a starting point common to both routes, we find the direct distances to be, from Detour to Pigeon Bay 300, and from Pigeon Bay to Red River say 356 miles, in all 656 miles. By way of Minnesota the distances are, Detour to Chicago, 350 miles, Chicago to St. Paul's 340 miles, and from St. Paul's to Fort Garry 380 miles, in all 1070 miles, making a difference of 414 miles in favor of the Lake Superior route through our own territory. The above distances are given in air lines and would of course be considerably increased in actual travel, but there is not the least reason to suppose that they would be more increased by the one route than by the other. Pigeon Bay, on Lake Superior, is equally accessible and rather less distant from Lake Huron than Chicago is: but allowing these two points to be equally accessible from the East, when we turn to the West, Fort Garry is 356 miles distant from our own Port, and 720 miles distant, *via* St. Paul's, from the American. In other words, starting from Fort Garry it is about 30 miles further to St. Paul's than to Pigeon Bay, and when you have got to St. Paul's you are about as far from Chicago as you were from Pigeon Bay before you started from the Red River.

To make an excellent waggon road, therefore, clear through from a British Port on Lake Superior to Fort Garry on Red River, allowance for curvatures bringing the distance up to about 400 miles, would take say £95,000. Such a road, at a cost of £240 per mile, would immediately transfer the trade from St. Paul's to Lake Superior, would speedily pour a large population into the country, and would likewise become settled throughout its entire length, with such occasional exceptions, no doubt, as usually occur on the average of road lines in the interior of Canada. This result is worth millions of money to the people and the trade of this country, and the outlay is comparatively insignificant. But it is not necessary to

make even this outlay to attain the end desired. I have already shown 260 miles navigable on the route, in three, or at most in four, separate reaches, the data for which, I have taken from the actual survey made in 1826 under the Treaty of Ghent. The navigable parts are not of course in a straight line, but they lie very closely in the general direction of the route, and from £25,000 to £30,000 expended on the 115 miles from Lake Superior to the first navigable reach referred to might at once be said to open up the territory. Gradual access might of course be had, at a still less cost, by commencing settlement with the ordinary class of free grant roads. The whole route might indeed be made accessible at once at the cost of a few thousand pounds, by clearing out the portages (over which artillery and military stores have been taken ere now) which have fallen into disuse, and even this would be beneficial, as it would create trade and travel enough to induce a more general knowledge of the capabilities of the country. I need only add on this head that my views of this part of the country are derived personally from some who have seen it, and from the writings of others, and have recently been confirmed by the evidence of Sir George Simpson and Dr. Rae, who, while manifesting a strong desire to condemn, have afforded the most convincing proofs of the practicability of rendering this route available. They both admit that from the high lands, near Lake Superior, Westward to Lake Winnipeg, the country generally is of a flat character.

The next point is, that from the impracticable nature of the north shore of Lake Superior it can only be a summer route, and that it is not therefore desirable to have a British population in these countries to which access could only be had, during winter, through the United States. I admit the inconvenience, but what becomes of Canada altogether in winter? The entire intercourse between it and England is through the States at that season. But, it may be said, there is another route *possible*, from Halifax to Quebec. Is there, then, no other route *possible* to Red River? Fortunately Dr. Rae has recently thrown some very valuable light upon the subject. He says that in the interior, behind the rock bound shores of the upper part of Lake Superior, the country is low and swampy, having found it rough and broken whenever he got nearer the Lake. "*Swampy*," it must be observed, as used in Canada, conveys an erroneous impression to English readers, who do not know that what is called a "*swamp*" in Canada is a level tract, with a *thicket* growing upon it, which keeps the ground damp by keeping out the sun's rays; that there is generally from six to eighteen inches of rich vegetable mould on the surface, with a pretty stiff clay bottom; that in short a *Canadian swamp* is about the best ground that nature ever made for a Railway track. Dr. Rae has not been far enough back at the lower end of Lake Superior to reach such a country, but we have the explorations of gentlemen connected with the lumber trade a considerable distance into the interior, westward from Lake Temiskaminque, where a very fine, level, hardwood country is found; and from other good authorities I have learned that the country continues of a flat character westward to the localities described as such by Dr. Rae, and that the snow does not lie quite so deep as in Lower Canada.

I shall not assert anything positive of a route which has not been sufficiently explored or reported upon, but from all that is known, there is no rational ground for supposing that the route would be in the least more difficult in its natural features than between Quebec and the Lower Provinces. Such a route is of no immediate necessity, however, until a considerable population shall have grown up to the West.

Having dealt thus fully with the question of the accessibility of the country, I shall be brief in relation to its soil and climate, which are so generally known as to render a refutation of the erroneous statements still sometimes made by interested parties, or those who are swayed by them, a superfluity.

I have had some communication with parties in England who take a deep interest in the subject, and have seen a great part of the evidence taken by the Committee of the House of Commons, before which it has lately been undergoing

investigation. The evidence given on that occasion, on behalf of the Hudson's Bay Company, must ultimately become a subject of deep regret to those whose names are associated with it. But it will soon, I presume, become public, and I need not now anticipate the reception it must then meet with.

I will only advert to a few points to elucidate my remarks upon the soil and climate of the country. Sir George Simpson admits—what everybody knows—that the climate on the same parallel of latitude, improves to the west. I am aware that wheat grown in eastern Canada, north of the 48th parallel of latitude, obtained honorable mention as ranking next after the prize wheat at the World's Exhibition in Paris. The Rainy Lake River is also between the 48th and 49th parallels of latitude, but there Sir George tells the Committee that the ground, behind the immediate bank of the river, is permanently frozen. Thus between the same parallels of latitude we find one point on the east, at which we know that the best of wheat can be grown, and another point, thirteen hundred miles due west of it, where, while he says the climate improves by westing, Sir George informs the Committee that we have reached the regions of perpetual frost.

Colonel Lefroy also says that the climate ameliorates to the westward, but yet that in the country from Lake Superior west to the Rocky Mountains both soil and climate are adverse to settlement. His proofs are curious, however: He says wheat has been raised with success at Fort Cumberland. Now Fort Cumberland is upwards of three hundred miles due north of the boundary. Following the same meridian due south, therefore, there must be one of the finest wheat growing countries imaginable; at least a due north and south line of upwards of three hundred miles, in this part of the world, would reach from a very fine to a very indifferent wheat growing country. He says also that horses live out and find their own food all winter on the north branch of the Saskatchewan, and that the Buffaloe get very fat in winter. He says that barley is the only cereal that can be grown with success at Fort Simpson; but this being about 62° north latitude, (he mistakes in calling it 58°), the climate on the same meridian at 49° must be magnificent. The fact is, that those who have given evidence for the Company, speak of the territories from Lake Superior to the Rocky Mountains, and from latitude 49° to the Polar regions, as a whole, and thus it is that Fort Simpson is dragged in to prove the unfitness of the country generally for agriculture; whereas the fact that nothing better than barley can be grown at Archangel might as well be adduced to prove that wheat would not succeed in Poland, or the fairest portions of Germany; or the inhospitable climate of Lapland made an argument against the cultivation of the British Islands. Colonel Lefroy indeed condemns *both* soil and climate, and attributes the success of agriculture at Fort Simpson to the fact of the farm being on an Island formed by alluvial deposit. If then the accident of an Island of alluvial soil in latitude 62° found a climate genial enough to make "*farming unusually successful*," with "*very fine timber*," though "*the largest trees seldom exceed three feet in diameter*," no language of mine could convey a stronger disproof of the evidence given by the same gentleman against the climate as a whole, including 13 degrees further south, and the same proximity to the Pacific as Fort Simpson.

Respecting my own opinions upon the subject, from having read what has been written by indifferent parties upon it, I think the nature of the climate is just as well established as that of the climate of Europe and Asia is. It is affected by the same causes precisely, varied in a greater or less degree in different localities by circumstances peculiar to each.

The west side of the continent of Europe and Asia is warmer on the same parallel of latitude than the east side, because the west has an ocean to the *windward* of it, the prevailing winds being westerly.

The cause and effect are precisely the same on the continent of America, only they operate in a somewhat greater degree from its having a larger and warmer ocean to the windward of it, and a colder sea to chill its eastern shores.

The greater coldness of the North Atlantic, on the eastern shores of America, is caused by the mass of ice that annually drives southward through Davis' Straits. I believe there are no such icebergs reach the same latitudes in the Pacific.

The Isothermal lines of equal temperature run farther north therefore on the west coast of America on the Pacific, than on the west coast of Europe on the Atlantic.

The observations upon which this fact is based, are concurred in by all disinterested authorities; against such testimony the evidence of the few interested in the Hudson's Bay Company, or their friends, is entirely valueless.

Assuming, however, that equal latitude gives only the same mean temperature on the west coast of America, as on the west coast of Europe, we find that some of the finest countries in the world lie between the 49th and 60th parallels, including the whole of the British Islands.

The 60th parallel of north latitude passes through Christiania, in Norway, a little north of Stockholm the capital of Sweden, and through St. Petersburg; but in following the same parallel through Europe and Asia we come out in the most northerly parts of Kamtschatka, which cannot be said to be habitable in the ordinary sense.

There is no barrier in climate, therefore, to a St. Petersburg being at latitude 60° north on the west coast of America, any more than on an inlet of the West coast of Europe, although on following the same parallel eastward across the continent to the shores of Hudson's Bay, or the confluence of Hudson's and Davis' Straits, we come to countries whose sterile shores and wintry skies forbid the hope of their ever becoming the homes of civilized men, except as hunters and fishers.

The 49th parallel of north latitude passes nearly a degree south of the southernmost point of England, through the environs of Paris, through the southern Provinces of Germany, and less than a degree north of Vienna.

There is no reason therefore, as regards climate, why the lower course of the Fraser River, or the upper course of the Columbia, in British territory, and in the same latitudes, should not rival the banks of the Rhine, the Meuse, or the Moselle; there is no such reason why the valleys of the Unjiga, the Elk, the Saskatchewan, the Red River and the Assiniboine should not yield their golden harvests as rich as those of the Weser, the Elbe, the Oder or the Vistula.

The geographical affinities between these localities, in relation to those influences by which climate is affected, are indeed such that it would require some very strong facts, sustained by a concurrence of all the most credible testimony, to prove that the above comparison is too favorable to the places I have named on this continent. The facts established, however, by all disinterested authorities, prove the reverse.

What then is this immense region, equal in area and climate to many of the most powerful kingdoms of the Old World, composed of? Bare rock, snow-clad mountains, and sandy plains or swamps and morasses are what the friends of the Hudson's Bay Company would have us believe. We find, however, that the construction of this part of the globe is very much like the rest of the world, varying from the primitive to the secondary and tertiary formations, with limestone, coal, &c., in abundance, and to assert that a country of such formation, and with such a climate, is unfit for the abode of man, is simply to assert that the laws of nature are reversed in regard to it.

The Company and their friends, however, try to prove too much; according to Sir George Simpson, immediately to the south of the 49th parallel on the Pacific coast, there is a beautiful country—that being United States territory—and immediately to the north of that parallel the country is all rock and mountain, “quite unfit for colonization,”—that being British territory. Indeed, according to him, the 49th parallel forms a sort of natural wall across the continent; that is, not quite across it, for a peculiar feature in his evidence is that the regions

of permanent frost get down south of it at one point, and not the least strange part of this phenomenon is that it just occurs at that point where the parallel of 49° ceases to be the boundary, and the British territory also gets to the south of it, viz: at Rainy Lake.

Animal life, however, abounds in the country; the Buffalo, literally "*swarm*" even according to the evidence submitted by the Company.

The Rocky Mountains have also been referred to as affecting the climate injuriously by the influence of the perpetual snow upon their summits. But the fact that the snow-clad mountains of other countries do not prevent the valleys from being habitable is a sufficient argument against this; indeed it is questionable whether the increased reflection of the sun's rays, concentrating in the valleys below, does not more than compensate for the cold communicated from the snow upon their summits.

I may remark, in conclusion, that the Lake Superior route to the Red River, was not always such a solitude as it is now. The strife between the Companies was deplorable, in many respects, but the disorder and anarchy could easily have been subdued—indeed was subdued—and could have been so still more readily, had the facilities for access been as great then as now. But it must be remembered that canoe navigation at that time commenced at Lachine, and yet even then, there was a great highway, for there was money to be made, and a land worth fighting for lay in the distance.

The following extract from a work, published by a gentleman, who had come across from the Pacific, represents the scene on his arrival at Fort William, on August 16th, 1817:

"On inquiry, I ascertained that the aggregate number of those persons in and about the establishment, was composed of natives of the following countries, viz: England, Ireland, Scotland, France, Germany, Italy, Denmark, Sweden, Holland, Switzerland, United States of America, the Gold Coast of Africa, the Sandwich Islands, Bengal, Canada, with various tribes of Indians, and a mixed progeny of Creoles or half-breeds. What a strange medley! Here were assembled on the shores of this inland sea, Episcopalians, Presbyterians, Methodists, Sun-worshippers, men from all parts of the world, and whose creeds were 'wide as the poles asunder,' united in one common object, and bowing down before the same idol."

Ross Cox,

London, 1831.

These were the features of an embryo city—in strange contrast with the desolate and decaying loneliness which the blight of an illegal monopoly has thrown over it to-day—the entrepôt of the trade of half a continent which, but for that blight would, at this day, have helped to enrich the Canadian people, to fill their canals, and to swell the traffic on their Railroads, and it depends upon the action to be taken now how long the incubus is to last.

If I have said anything which may seem harsh or uncalled for, of any one connected with the Hudson's Bay Company, I regret it. I have given my answers hurriedly, and may have used expressions I would recall, as I have had no motive but to shew the truth, though I have desired to speak it strongly for the good of my country, and in the interest of humanity.

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